IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23/01/2004

CORAM

THE HON□BLE MR.JUSTICE P.D. DINAKARAN

Writ Petition No.9627 of 1998
and Writ Petition Nos. 9328 to 9633 of 1998
and
WMP.Nos.14726 to 14739 of 1998

N.Amaravathy .. Petitioner in
W.P.No.9627/98

K.Sundararajan .. Petitioner in
W.P.No.9628/98

A.K.Shanmugavelan .. Petitioner in
W.P.No.9629/98

N.Kalimuthu .. Petitioner in
W.P.No.9630/98

K.B.Kumar .. Petitioner in
W.P.No.9631/98

K.Sasikala .. Petitioner in
W.P.No.9632/98

V.Ramakrishnan .. Petitioner in
W.P.No.9633/98

-Vs-

1.The State of Tamilnadu,
rep. by the Secretary to Govt.,
Housing and Urban Development,
Fort St. George, Chennai-9.

2.The Special Deputy Collector,
(Land Acquisitions),
Tamil Nadu Housing Board Schemes,
Nandanam, Chennai-36.

3.The Special Tahsildar,
(Land Acquisition □ IV),
Tamil Nadu Housing Board Schemes,

Nandanam, Chennai-35.

4.The Special Tahsildar,
(Land Acquisitions),
Chennai Metropolitan Development
Authority Schemes,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road,
Chennai-600008. .. Respondents in
all petitions.

Petitions under Article 226 of the Constitution of India praying for
writ of Certiorari as stated therein.

For Petitioners : No appearance

For Respondents : Mr.K.Mahendran,
Spl. Govt. Pleader-R1 & 4.
Mr.D.Veerasekaran,
Standing Counsel TNHB-R2 & 3.

:O R D E R
There was no representation on behalf of the petitioners either at 1
1.30 a.m. or at 12.30 p.m. Hence these matters were passed over and called
at 2.15 and again at 4.00 p.m. Even then there was no representation on
behalf of the petitioners. Hence I was constrained to hear the learned
counsel for the respondents and pass the following order.
2. The petitioners in these writ petitions are concededly purchasers
of vacant lands in Survey Nos.376/2, 378, 379, 380, 381/1, 381/2, 38 2, 383,
384, 388, 398, 392 part and 402 (14.09 acres) (petitioner in W.P.No.9627/98),
397 part (46 cents) (petitioner in W.P.No.9628/98), 393 (49 cents) (petitioner
in W.P.No.9629/98), 391 part, 398 part and 399 part (97 cents) (petitioner in
W.P.No.9630/98), 391 part (49 cents) (petitioner in W.P.No.9631/98), 401 part
and 402 part (48 cents) (petitioner in W.P.No.9632/98) and 397 part (25 cents)
(petitioner in W.P.No.9633/98) respectively in Nerkundram Village,
Chinmayanagar, Chengelpet District, which are governed under the land
acquisition proceedings subsequent to the issuance of a notice under Section
4(1) of the Land Acquisition Act, 1894 (Central Act I of 1894) (hereinafter
referred to as 'the Act') on 8.5.1975, from one P.M.Sundaram and others. It
is true that the original owners of the lands agitated against the said
acquisition proceedings before this Court and also obtained interim stay of
the said proceedings by order dated 3.4.1981 in WMP.No.2557 of 1981 in Writ
Petition No.1807 of 1981 and the main writ petition was finally disposed of by
a Division Bench of this Court by order dated 19.2.1991 for non prosecution.
Against the said order dated 19.2.1991, which was dismissed for
non-prosecution, the original owners viz., P.M.Sundaram and others filed
WMP.No.15410 of 1991 for restoration of the writ petition. The said petition
was also dismissed by the Division Bench of this Court on 25.8.1991. But,
thereafter, Review Petition No.21 of 1991 was preferred by the original owners
and the same was allowed by order dated 17.9.1991 and thereafter, the writ
petition was allowed by order dated 29.10.1991 following the decision of this

Court in State of Tamil Nadu, rep. by its Secretary, Urban Development, Madras and another vs. A.Mohammad Yousuf and others, reported in 1990 (2) Law Weekly 360. But, thereafter, the Apex Court by judgment dated 10.11.1995, following the judgment of the Apex Court dated 1.11.1995 made in Civil Appeal Nos.1865-66 of 1992 and batch, allowed S.L.P. preferred by the State against the order dated 29.10.1991 made in Writ Petition No.1807 of 1981 and as such, the writ petition filed by the original owners of the lands was ultimately dismissed.

3. In the meanwhile the petitioners herein have purchased the said vacant lands from the original owners and the State also issued notice under Section 9 of the Act, to the petitioners herein before passing the award.

4. It is not in dispute that an enquiry under Section 5(A) of the Act was conducted after giving notice to the interested persons, a declaration was passed under Section 6 of the Act on 7.6.1978, the award proceedings were initiated under Section 9(3) of the Act and finally an award came to be passed on 31.10.1997. Aggrieved by such award the petitioners, who are the subsequent purchasers, have filed these writ petitions.

5. The core contention of the petitioners is that the entire acquisition proceedings is illegal as the award being passed on 31.10.1997 i.e. beyond the period of two years from the date of declaration viz., 7.6.1978 and therefore, the entire acquisition proceedings are lapsed in view of Section 11-A of the Act.

6.1. From the above facts, it is very clear that even though the earlier writ petition No.1807 of 1981 filed by the original owners was originally dismissed for default, the same was restored by the Division Bench of this Court in Review Petition No.21 of 1991 as stated above. Aggrieved by such order, the State went on appeal before the Supreme Court. The Supreme Court by its judgment dated 10.11.1995 disposed of the appeal filed by the State and observed as follows:
"Delay condoned. Leave granted. The point raised in this appeal is covered by our judgment dated 1.11.1995 in Civil Appeal Nos.1865-66 of 1992 and batch. The said judgment will govern this matter in all respects. The appeal is disposed of accordingly. No costs."

6.2. In this regard, it is relevant to quote Section 11-A of the Act, which came into effect from 24.9.1984, for the purpose of deciding the issue involved in these writ petitions.
" 11-A. Period within which an award shall be made:-
" The Collector shall make an award under Section 11 within a period of two years from the date of publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:
Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 19 84, the award shall be made within a period of two years from such commencement.
Explanation:- In computing the period of two years referred to in this

section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded. "

6.3. Once the writ petition, which was filed before Section 11(A) of the Act was inserted, came to be restored and ultimately allowed by order dated 29.10.1991, both the parties were put on status-quo ante.

6.4. The said order of the Division Bench of this Court dated 29.10.1991 was set aside by the Apex Court by an order dated 10.11.1995 and thereafter the respondents passed the impugned award on 31.10.1997.

7. In this regard, I am obliged to refer the decision in N. Narasimhaiah Vs. State of Karnataka, reported in (1996) 3 SCC 88, wherein it is held as follows:
"the intervention of the Court in the land acquisition proceedings would prevent the period of limitation from running and the date of final orders of the Court would be the fresh date of start of limitation for the purpose of Section 11A of the Act."

No doubt, the Constitution Bench of the Apex Court in PADMA SUNDARA RAO Vs. STATE OF T.N., reported in AIR 2002 SC 1334 = (2002) 3 SCC 533 , overruled the said decision in N.Narasimhaiah Vs. State of Karnataka, referred supra, but the Constitution Bench made it clear that the ratio laid down in PADMA SUNDARA RAO Vs. STATE OF T.N., referred supra, shall operate only prospectively. In the instant case, the crucial date for the purpose of computing two years as per Section 11-A of the Act, as per the decision of the Apex Court in N.Narasimhaiah Vs. State of Karnataka, referred supra, is the date of disposal of the SLP by the Apex Court preferred by the State viz., 10.11.1995, as the impugned acquisition award was passed on 31.10.1997 i.e. prior to the decision in Padma Sundara Rao Vs. State of T.N., referred supra, and in which event, the same is well within the period of two years from the date of judgment of the Apex Court dated 10.11.1995. Hence, there is no violation of Section 11-A of the Act.

8.1. That apart, in U.P. JAL NIGAM v. KALRA PROPERTIES (P) LTD. reported in (1996) 3 SCC 124, the Apex Court has held that after the notification under Section 4(1) is published in the Gazette, any encumbrance created by the owner does not bind the Government and the purchaser does not acquire any title to the property and the sale is void against the State and the purchaser acquired no right, title or interest in the land and consequently, the subsequent purchaser cannot challenge the validity of the notification or the regularity in taking possession of the land before publication of the declaration under Section 6 of the Act.

8.2. In view of the above settled law that the petitioners, being subsequent purchasers, have no right to challenge the acquisition proceedings, and therefore, they have no locus standi to file these writ petitions, except to establish their right in the award proceedings.

9. For all these reasons, I do not find any justification to interfere with the impugned acquisition proceedings. Hence, these writ petitions are dismissed. No costs. Consequently, WMP.Nos.14726 to 1473 9 of 1998 are also dismissed.

Index : Yes
Internet: Yes

ATR

To;
1.The Secretary to Govt.,
Housing and Urban Development,
State of Tamilnadu,
Fort St. George, Chennai-9.

2.The Special Deputy Collector,
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3.The Special Tahsildar,
(Land Acquisition IV),
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